

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL NOTE**

**HB 1193 - SB 1318**

March 17, 2015

**SUMMARY OF BILL:** Extends the open container law to passengers in a motor vehicle. Excludes passengers in vehicles for hire or in the living quarters of a house coach or house trailer, or passengers in a vehicle being operated by a chauffeur. Extends current Class C misdemeanor for violation of open container law to any such applicable passengers. States that any Class C misdemeanor violation in this section is punishable only by a fine of \$50.

Creates the Tennessee Administrative License Revocation Act. Authorizes law enforcement to confiscate the driver's license of any individual being charged with DUI for the purpose of an official administrative revocation hearing to be conducted by the Department of Safety (DOS). Establishes procedures to be followed for law enforcement officers, charged individuals, and DOS. Requires DOS to issue to charged individuals a temporary permit, or a temporary photo identification license. Requires DOS to reimburse local governments for the cost of law enforcement officers attending revocation hearings. Requires charged individuals to pay to the DOS administrative processing fee of \$100 and a reinstatement fee of \$100. Excludes drug-related offenses from the Act.

**ESTIMATED FISCAL IMPACT:**

**Increase State Revenues-** \$2,931,100/FY15-16  
\$3,908,100/FY16-17 and Subsequent Years

**Increase State Expenditures-** \$6,064,800/FY15-16  
\$5,983,200/FY16-17 and Subsequent Years

**Increase Local Revenue-** \$700/FY15-16  
\$900/FY16-17 and Subsequent Years

**Other Fiscal Impact – Potentially a small reallocation of highway federal-aid funding, received pursuant to the National Highway Performance Program and the Surface Transportation Program, away from capital improvements or planning and toward more highway safety training for the general public. The extent of any potential impact is unknown and dependent upon several unknown factors.**

Assumptions relative to proposed open container law:

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- Based on information provided by DOS and the Tennessee Sheriffs Association, an additional 500 violations per year by passengers.
- A 75 percent collection rate; 25 percent will not be collected due to indigence.
- According to DOS, 95 percent of such fine revenue is allocated to the state General Fund; five percent is allocated to local government.
- The recurring increase in state revenue to the General Fund beginning in FY16-17 is estimated to be \$17,813 ( $500 \times \$50 \times 75.0\% \times 95\%$ ). The increase in state revenue to the General Fund in FY15-16 is estimated to be \$13,360 ( $\$17,813 \times 75\%$ ) due to the effective date of October 1, 2015.
- The recurring increase in local revenue beginning in FY16-17 is estimated to be \$937 ( $500 \times \$50 \times 75\% \times 5\%$ ). The increase in local revenue in FY15-16 is estimated to be \$703 ( $\$937 \times 75\%$ ) due to the effective date of October 1, 2015.
- Any additional cost to state and local government for enforcement of the open container law relative to passengers is estimated to be not significant.
- According to the Department of Transportation (TDOT), this bill does not meet the Federal Highway Administration requirements.
- TDOT indicates this bill could change required uses for federal funds received through the National Highway Performance Program and the Surface Transportation Program. Specifically, the department indicates that federal monies received may have to be used more for behavioral and safety projects and be used less for transportation expansion projects. The extent of any such impact is unknown and dependent upon unknown factors.

Assumptions relative to administrative license revocation:

- DOS indicates approximately 34,000 DUI arrests and approximately 27,000 convictions per year.
- All new positions required as a result of this bill will be for the full extent of FY15-16 in anticipation of the October 1, 2015 effective date of the program.
- To implement the provisions of this bill, DOS will require the following additional resources: 44 additional positions in the Driver License Issuance Division; seven additional positions in the Legal Division; and one additional position in Information Systems.
- DOS will require additional appropriations for funding the required positions. The recurring increase to state expenditures from the General Fund is estimated to be \$3,326,518 (salary, benefits, supplies, communications, etc.) beginning in FY15-16. The one-time increase in state expenditures from the General Fund associated with the creation of these positions is estimated to be \$448,722 (computers, software, telecommunications, etc.). These one-time expenses will occur in FY15-16.
- The Administrative Office of the Courts (AOC) indicates 10,000 additional offenders will request administrative hearings as a result of this legislation.
- According to AOC, an additional public counsel position will be required for indigent offenders seeking representation at administrative hearings. AOC will require additional appropriations to fund this position. The recurring increase in state expenditures from the General Fund is estimated to be \$119,000 beginning in FY15-16.

- Beginning in FY15-16, DOS indicates the additional cases can be heard by administrative law judges within the Secretary of State's office. The Department of State will require additional appropriations for funding administrative law judges and support staff. The recurring increase in state expenditures from the General Fund is estimated to be \$750,000 beginning in FY15-16.
- The Department of State will be reimbursed by DOS for all administrative expenditures incurred as a result of approximately 10,000 hearings. These administrative expenditures are estimated to be \$1,400,000, which is based on approximately \$140 of cost for each of the 10,000 hearings. DOS will require additional appropriations for this purpose; thus, a recurring increase in state expenditures from the General Fund of \$1,400,000 beginning in FY16-17. Due to the effective date of October 1, 2015, the increase in state expenditures from the General Fund for FY15-16 is estimated to be \$1,050,000 ( $\$1,400,000 \times 75\%$ ).
- It is expected that the Office of Attorney General (AG) would be required to represent DOS in appealed cases. As a result, three additional attorney positions would be required. The AG will require additional appropriations for funding these positions. The recurring increase to state expenditures from the General Fund is estimated to be \$319,000 per year (salary, benefits, communications, supplies, etc.) beginning in FY15-16.
- DOS will receive additional state revenue derived from processing fees, reinstatement fees, fees for filing proof of financial responsibility, and the issuance of driver licenses, temporary permits, and photo identifications.
- Based on DOS information, 22,032 of the 27,000 convicted will pay the \$100 reinstatement fee and 50 percent of those individuals (or 11,016) are estimated to also pay the \$50 financial responsibility fee.
- DOS reports additional driver license fees from the 22,032 individuals will generate approximately \$1,136,300.
- The recurring increase in state revenue is estimated to be \$3,890,300 [ $(22,032 \times \$100) + (11,016 \times \$50) + \$1,136,300$ ] per year beginning in FY16-17. The increase in state revenue for FY15-16 is estimated to be \$2,917,725 ( $\$3,890,300 \times 75\%$ ) due to the effective date of October 1, 2015.
- Local governments will incur expenditures from law enforcement officers being required to testify at hearings. These expenses will be reimbursed by DOS. As a result, DOS will require additional appropriations in order to facilitate payments to local governments. As a result, the recurring increase in state expenditures from the General Fund is estimated to be \$68,700 beginning in FY16-17. The increase in state expenditures from the General Fund in FY15-16 is estimated to be \$51,525 ( $\$68,700 \times 75\%$ ) due to the effective date of October 1, 2015.

#### Totals for open container law and administrative license revocation

- The increase in state revenue for FY15-16 as a result of this bill is estimated to be \$2,931,085 ( $\$2,917,725 + \$13,360$ ).
- The recurring increase in state revenue beginning in FY16-17 as a result of this bill is estimated to be \$3,908,113 ( $\$3,890,300 + \$17,813$ ).

- The increase in state expenditures for FY15-16 as a result of this bill is estimated to be \$6,064,765 (\$3,326,518 + \$448,722 + \$119,000 + \$319,000 + \$750,000 + \$1,050,000 + \$51,525).
- The recurring increase in state expenditures beginning in FY16-17 as a result of this bill is estimated to be \$5,983,218 (\$3,326,518 + \$119,000 + \$319,000 + \$750,000 + \$1,400,000 + \$68,700).
- The total increase in local revenue in FY15-16 as a result of this bill is estimated to be \$703.
- The total recurring increase in local revenue beginning in FY16-17 as a result of this bill is estimated to be \$937.

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Jeffrey L. Spalding, Executive Director

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